

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

In re G.A., a Person Coming
Under the Juvenile Court Law.

B303256

THE PEOPLE,

Los Angeles County
Super. Ct. No. PJ53428

Plaintiff and Respondent,

v.

G.A.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of
Los Angeles County, Fred J. Fujioka, Judge. Affirmed.

Courtney M. Selan, under appointment by the Court
of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

School police arrested minor G.A. around 8:15 p.m. on October 2, 2019. G.A.—about three weeks shy of his fifteenth birthday—had approached 14-year-old A.B. G.A. told A.B., “If you touch Yolanda again, I’m going to shoot you.” G.A. lifted his shirt and displayed the grip of what turned out to be a BB gun in his waistband. The BB gun was a replica of a Sig Sauer 1911 semi-automatic handgun. A.B. “believed the BB-gun was a real firearm and was in fear for her life.” Authorities searched G.A.’s residence and found a brown metal BB gun under his mattress as well as a magazine containing nine metal BB’s.

On October 4, 2019, the People filed a petition under Welfare and Institutions Code section 602¹ alleging G.A. violated Penal Code section 422, subdivision (a), commonly known as criminal threats. The People alleged G.A. personally used a deadly and dangerous weapon—the BB gun—in the commission of the offense.

G.A. appeared before the juvenile court on October 7, 2019. The court appointed counsel for G.A. and he denied the petition’s allegations. Over the prosecutor’s objection, the court released G.A. to his mother under the terms of the Community Detention Program.

Given that the court was releasing G.A., the prosecutor asked the court to enter a temporary restraining order (TRO). Defense counsel did not object to the issuance of the TRO. Counsel also told the court the defense didn’t object to the TRO remaining in effect beyond the 21-day limit (see § 213.5, subd. (c)(1)), as the court’s first available date to return was October 22. The court issued an order on Judicial Council form JV-250

¹ Statutory references are to the Welfare and Institutions Code.

ordering G.A. to stay 100 yards away from the victim A.B. and to have no contact with her, except through an attorney of record.²

On October 22, 2019, the court continued the matter to November 14, 2019. Counsel agreed “to continue the TRO hearing until the next court date and waive any defect.”

On November 14, 2019, the district attorney told defense counsel and the court he wanted to proceed with a permanent restraining order hearing. Defense counsel said she was “in the middle of investigating this matter” and that it was agreeable to the defense to let the TRO remain in place until the case could be resolved. The prosecutor noted a TRO “is supposed to be good for 25 days” only, and the People wanted “to get the permanent order as soon as possible.”

G.A.’s counsel argued “the People haven’t really presented anything to the court to warrant a permanent restraining order today” and there “ha[d] to be something more than just the underlying allegation” of the criminal threat.³ The prosecutor noted the rules of court permit the court to “accept proof from documentary evidence or [the] contents of the juvenile file at [a] restraining order hearing.” The prosecutor asked the court to read the preplea report prepared by the probation officer.

The court stated it was “obligated not to read the probation officer’s report before adjudication,” so it would read the police report instead. The court recessed briefly to read the police

² The record on appeal contains a TRO with a file-stamped date of October 7, 2019, but no signature on the line entitled “Judicial Officer.”

³ Defense counsel cited *Babalola v. Superior Court* (2011) 192 Cal.App.4th 948. That case was a criminal—not juvenile—court case involving section 136.2 of the Penal Code, not the relevant provisions of the Welfare and Institutions Code.

report⁴ and then—after counsel argued further and submitted the matter—issued the permanent restraining order. The court completed and signed form JV-255, Restraining Order—Juvenile, Order After Hearing. The order contained the same stay-away and do-not-contact provisions as the TRO.

G.A. appealed. The Notice of Appeal states he appeals from the issuance of the TRO on October 7 and the juvenile restraining order on November 14. We appointed counsel to represent G.A. After examining the record, counsel filed an opening brief raising no issues and asking this court independently to review the record under *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*). Counsel notified G.A. that he could file a supplemental brief. On June 17, 2020, we also sent a notice to G.A. that he could file a supplemental brief within 30 days. We have received no supplemental brief or letter from G.A.

We have jurisdiction to hear this appeal. (*In re Jonathan V.* (2018) 19 Cal.App.5th 236, 238, fn. 1 [restraining orders issued in juvenile proceedings are appealable].) However, G.A.’s appeal from the October 2019 TRO is moot. (*In re E.F.* (2020) 45 Cal.App.5th 216, 219, review granted June 17, 2020, S260839; *O’Kane v. Irvine* (1996) 47 Cal.App.4th 207, 210, fn. 4 [an appeal from a TRO following a trial court’s grant of a longer restraining order is moot].) Moreover, as noted, G.A. never objected to the issuance of the TRO in the juvenile court. He therefore has forfeited the issue. (See *People v. Rivera* (2019) 7 Cal.5th 306, 341; *People v. Avila* (2009) 46 Cal.4th 680, 729.)

Section 213.5, subdivision (b) authorizes a juvenile court—when a petition has been filed under section 602 and is pending—to issue an ex parte order enjoining the minor from contacting,

⁴ The police report is not included in the record on appeal.

threatening, or disturbing the peace of “any person the court finds to be at risk” from the minor’s conduct. Section 213.5, subdivision (d)(1) authorizes the court to issue a restraining order that may be effective for up to three years. (§ 213.5, subds. (b), (d)(1); *In re E.F.*, *supra*, 45 Cal.App.5th at p. 220.) We review a trial court’s issuance of a restraining order for an abuse of discretion, and the evidentiary foundation for such an order for substantial evidence. (*In re E.F.*, at p. 222; *In re Carlos H.* (2016) 5 Cal.App.5th 861, 866.) Under substantial evidence review, we interpret the facts in the light most favorable to the order and indulge all reasonable inferences in support of the trial court’s order; we do not reweigh the evidence. (*In re E.F.*, at p. 222; *People v. Smith* (2005) 37 Cal.4th 733, 739.)

Substantial evidence supports the juvenile court’s issuance of the restraining order in this case. There need only be evidence that the minor who is restrained disturbed the peace of the protected child—that is, that the minor engaged in conduct that destroyed the mental or emotional calm of the other party. (*In re E.F.*, *supra*, 45 Cal.App.5th at pp. 222-223; *In re Bruno M.* (2018) 28 Cal.App.5th 990, 997.) Before issuing the restraining order, the juvenile court read the police report, which the People had presented as an exhibit.⁵ While the police report is not part of the record on appeal, the Detention Report dated October 3, 2019, summarizes its contents: According to school police, G.A. “trespassed onto school grounds and used a BB-gun to threaten the victim. [G.A.] approached the victim and stated, ‘If you touch Yolanda again, I’m going to shoot you.’ [G.A.] then lifted his shirt, exposing a BB-gun in his waistband. *The victim believed*

⁵ The court admitted the exhibit by reference only and, after taking a recess to read the report, returned it to the district attorney.

the BB-gun was a real firearm and was in fear for her life.” (Italics added.) California Rules of Court, rule 5.630(f) authorizes the juvenile court—in ruling on an application for a restraining order—to consider, among other documents, “the contents of the juvenile court file.” In sum, the juvenile court did not abuse its discretion in issuing the restraining order.

We are satisfied that G.A.’s counsel has fully complied with her responsibilities and that no arguable issues exist. (*People v. Kelly* (2006) 40 Cal.4th 106, 109-110; *Wende, supra*, 25 Cal.3d at pp. 441-442.)

DISPOSITION

We affirm the juvenile court’s November 14, 2019 issuance of a juvenile restraining order barring G.A. from contact with the victim.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

EGERTON, J.

We concur:

LAVIN, Acting P. J.

DHANIDINA, J.